

REMARKS

Claims 33-36, 46, 49, 51-53, 56, 59-73 are currently pending. Claims 1-32, 37-45, 47, 48, 50, 54, 55, 57 and 58 were previously cancelled. Claims 60-73 are currently withdrawn as directed to a non-elected invention. Applicant reserves the right to pursue these claims in an application claiming priority to the present application. Claims 33, 34 and 56 are currently amended. No new matter is added.

35 U.S.C. 112, 1st Paragraph Rejection

Claims 33-36, 46, 49, 51-53, 56 and 59 stand rejected under 35 USC 112, 1st paragraph, as allegedly failing to comply with the written description requirement.

Specifically, the Examiner objects to the description of “annular” surfaces in claims 33 and 34. The term annular has been removed from claim 33, thus the rejection with respect to claims 33, 35, 36, 46, 49, 51-53 and 59 is moot. With respect to claim 34, Applicant traverses this rejection. According to the Examiner’s definition, “annular” means “of, relating to, or forming a ring.” Applicant submits that a tubular structure inherently has an annular surface. The specification states, “[t]he endoprosthesis 10 illustrated in FIG. 1 is a tube with a variable lumen” (col 5, lines 34-35). Thus, the Figures and the specification provide adequate written description for a tubular structure with an interior surface and an exterior surface that is annular.

The Examiner asserts that there is not adequate support for the wrinkled lining being adapted to “prevent release of medication when the structure is in the initial state” (Office Action, page 2). Although Applicant does not agree with the propriety of this rejection, claim 56 is amended without prejudice to remove this limitation and thus this rejection is moot.

35 U.S.C. 103(a) Rejections

Claims 33-36, 46, 49, 51-53, 56 and 59 stand rejected under 35 U.S.C. 103(a) as being allegedly anticipated by U.S. Patent 5,122,154 to Rhodes (“Rhodes”) in view of U.S. Patent No. 5,957,971 to Schwartz (“Schwartz”). Rhodes describes an endovascular bypass graft 20 that includes a sleeve member 28 and spaced stent members 30.

Rhodes fails to disclose or suggest an elongated hollow structure having a lining, as recited by claim 33. The Examiner interprets the “elongated hollow structure” claimed as the

stent members 30 of Rhodes. However, the stent members 30 do not form an *elongated* structure, but rather are separate and distinct, narrow “ring-like” structures disposed on the sleeve 28, as shown in Figs. 1 and 8.

Rhodes fails to disclose or suggest a lining comprising a polymer interfaced with a medication for delivery to a patient, as recited by claim 33. The Examiner interprets the “lining” claimed as the sleeve 28 of Rhodes. The Examiner admits that “Rhodes lacks mention of medications incorporated into the lining” (Office Action, page 3). Thus, sleeve 28 is not “interfaced with a medication for delivery to the patient.” The Examiner attempts to use Schwartz to cure this deficiency as discussed below.

Rhodes fails to disclose or suggest a lining containing a plurality of through holes, as recited by claim 33. The Examiner asserts that the sleeve 28 “inherently contains a plurality of through holes” since it “may comprise...Dacron mesh (*ibid.*: column 7, line 33)” (Office Action, page 3). However, the Examiner is improperly interpreting the reference. Rhodes states that “the graft 20 may include a thin layer of dacron mesh (not shown) on the outer surface of the graft to impact into the vessel wall”(column 7, lines 32-35). Thus, the sleeve 28 is not *made of* dacron mesh, but rather a mesh may be *attached onto* the outer surface of the sleeve. In this embodiment, the stent members 30 are located internally in the sleeve 28; thus instead of using protuberances 50 on the stent member 30 to hold the graft in place, the mesh is provided on the outer surface to maintain the graft in place in the vessel (column 7, line 18-24). Furthermore, Rhodes states that the graft “does not produce a portal for ingrowth of neointima or pseudointimal hyperplasia to occlude the graft body. While there may be some ingrowth into the wall of the member 28, such growth does not extend through the wall into the interior of the graft” (column 8, lines 54-59). Rhodes further states that “the material [of the sleeve] is impervious to ingrowth of tissue therein” (column 4, lines 18-19). For the sleeve to be impervious, there must not be any holes therethrough. Thus, Rhodes fails to disclose any through holes in the sleeve 28 and to provide such through holes would go directly against the teaching of the reference.

As discussed above, Rhodes does not disclose all the limitations of claim 33, and Schwartz does not cure these deficiencies. Schwartz describes an intraluminal stent with a fibrin film coating thereon. However, Schwartz fails to disclose a lining containing a plurality of through holes, as the Examiner admitted in the interview of August 14, 2008. Thus, neither of

the cited references disclose or suggest “a lining containing a plurality of through holes” as claimed. Furthermore, although Schwartz may disclose that a therapeutic can be incorporated into a fibrin film, this does not provide any teaching or suggestion for adding a therapeutic to the impervious ePTFE sleeve of Rhodes. An impervious sleeve cannot be considered to be equivalent to a fibrin film.

For at least the above reasons, Applicant respectfully requests withdrawal of the above rejections.

CONCLUSION

The Applicant respectfully submits that this application is now in condition for allowance. Should any questions arise, the Examiner is invited to contact the undersigned at the number given below. Applicant's representative hereby requests an interview with the Examiner and will call to ascertain a date and time convenient to the Examiner's schedule. The Commissioner is authorized to charge any additional necessary fees or to credit any overpayments to Deposit Account No. 11-0600.

Respectfully submitted,

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